

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOSES KIRSCHKE,

Plaintiffs,

v.

Case No. 2:19-cv-13788
District Judge Denise Page Hood
Magistrate Judge Anthony P. Patti

CORIZON HEALTH, INC.,
et al.,

Defendants.

/

STATUS CONFERENCE ORDER, CONTINUATION OF STAY, and
ORDER DEEMING SEVERAL MOTIONS (ECF Nos. 105, 128, 130, 134,
136, 150) WITHDRAWN WITHOUT PREJUDICE

A. Background

Moses Kirschke is currently incarcerated at the Michigan Department of Corrections (MDOC) Lakeland Correctional Facility (LCF). In December 2019, while located at LCF, Kirschke, *in pro per*, initiated this lawsuit against approximately eighteen Defendants. (ECF No. 1, PageID.1-6, 12-14.) After discussing the “factual background of Corizon Health Incorporated and its medical practices,” (id., PageID.15-18 ¶¶ 16-30), and the “facts relating to Plaintiff’s medical condition, issues, and/or claims,” (id., PageID.18-73 ¶¶ 31-336), Plaintiff describes his “causes of action,” which are based on the Eighth Amendment (*id.*, PageID.73-81 ¶¶ 337-370). He requests compensatory and punitive damages, as

well as declaratory and injunctive relief. (*Id.*, PageID.81-82). (*See also* ECF Nos. 9, 10, 11, 12, 13, 14, 31, 32, 49 [Exhibits].)

On August 10, 2020, the Court entered an order dismissing Defendant Waites and granting Plaintiff's motion to amend the complaint (ECF No. 7), namely, to change the capacity in which he sues Corizon Health. (ECF No. 19.) On June 1, 2022, the Court entered an order, which, in part, directed the Clerk's Office to send Plaintiff a copy of ECF No. 1, and further directed that he then mail it back in the correct order. (ECF No. 78.) The corrected, re-ordered original complaint was filed June 7, 2022. (ECF No. 85.)

B. Pending Motions, Bankruptcy Stay & Status Conference

This case has been referred to me for pretrial matters. (ECF Nos. 39, 93.) There are several motions currently pending in this case. (ECF No. 105, 128, 130, 134, 136, 150, 154.) However, on February 28, 2023, this case was stayed for ninety (90) days, due to Defendant Corizon Health's Chapter 11 bankruptcy petition in Case No. 23-90086 (W.D. Tex.). (*See* ECF Nos. 146, 148, 151.) Within the last two weeks, several attorneys have filed appearances on Plaintiff's behalf. (ECF Nos. 162-163, 165-166.)

In light of the May 29, 2023 expiration of the stay and the several pending motions, the Court noticed a video status conference for May 30, 2023. (ECF No. 164.) On that date, counsel for the parties appeared, specifically:

- Yafeez Sohil Fatabhoy, Ashley Fernandez, Collin Kelly, and Grant Hohlbein (for Plaintiff);
- Thomas G. Hackney (for Defendants Bomber and Coleman);
- Assistant Attorney General Michael R. Dean (for J. Nixon, B. Piatkowski, Mary H. Heering, D. Smith, and Isaac); and,
- Nicholas Pillow (for Corizon Health, Bergman, the Regional Medical Director, Stacy, Papendick, Abdellatif, and Hill).

Krucho-Copley and Vettraino have been identified as Jane Doe Defendants 1 and 2 (ECF No. 126), and the U.S. Marshals Service has been facilitating service of process against them (ECF Nos. 138, 144). Krucho-Copley returned a waiver of service in February 2023 (ECF No. 147), at the time her answer was due (on or about March 24, 2023), the case was stayed, and on May 30, 2023 (following the video status conference), the Attorney General entered an appearance on her behalf. To date, Vettraino has not appeared.

C. Order

Consistent with representations made at the May 30, 2023 video status conference, Bergman (*a.k.a.*, the Regional Medical Director), Bomber, Stacy, Papendick, Abdellatif, and Coleman **WITHDRAW WITHOUT PREJUDICE** their dispositive motion (ECF No. 105), and Plaintiff **WITHDRAWS WITHOUT PREJUDICE** his pending motions (ECF Nos. 128, 130, 134, 136, 150). During the video conference, the Court asked the respective parties to file related notices of withdrawal; however, the Court will save counsel the effort and **HEREBY**

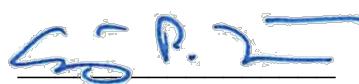
DEEMS them withdrawn. The March 13, 2023 motion to withdraw (as counsel for Defendants Corizon Health, Bergman, Bomber, Stacy, Papendick, Hill, Abdellatif and Coleman) and for 120-day stay (ECF No. 154) **REMAINS IN ABEYANCE** and will be addressed under separate cover if it is not ultimately mooted by the piecemeal or wholesale substitution of counsel for the various Corizon-related individual defendants, a process which has already begun in part.

The stay in this case is **EXTENDED** through **August 31, 2023**, and, to that end, the Court will hold another video status conference at **11:30 a.m.** that day. If and when the stay is lifted (or partially lifted), the Court will conduct a new scheduling conference, at which it will provide an opportunity to amend the pleadings, a new discovery deadline, new dispositive motion deadlines, *etc.*

Finally, any attorney intending to represent Vettraino is **DIRECTED** to file a notice of appearance on behalf of his or her client. Likewise, Attorney Pillow should consider doing the same on behalf of his clients, if he is joining Devlin Scarber as counsel of record.

IT IS SO ORDERED.¹

Dated: May 31, 2023



Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

¹ The attention of the parties is drawn to Fed. R. Civ. P. 72(a), which provides a period of fourteen (14) days after being served with a copy of this order within which to file objections for consideration by the district judge under 28 U.S.C. § 636(b)(1).